

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

WESLEY DEAN HESTER,

Plaintiff,

v.

Case No. 2:23-cv-00516 DHU-LF

LEA COUNTY CORRECTIONAL FACILITY
(GEO GROUP) STAFF; NEW MEXICO
CORRECTIONS DEPARTMENT; WEXFORD
HEALTH SERVICES AND STAFF THEREOF,

Defendants.

**RULE 56(F) NOTICE AND ORDER OVERRULING OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE’S PROPOSED FINDINGS AND
RECOMMENDED DISPOSITION**

The Magistrate Judge filed her Proposed Findings and Recommended Disposition (“PFRD”) on July 28, 2025. Doc. 131. The PFRD notified the parties of their ability to file objections within fourteen days, and that failure to do so waived appellate review. *Id.* at 30. On August 8, 2025, the GEO Defendants filed objections to the Magistrate Judge’s PFRD. Doc. 133. On August 27, 2025, Mr. Hester filed objections to the Magistrate Judge’s PFRD, which the Court finds timely under the prison mailbox rule. *See* Doc. 135 at 5 (stating that objections were placed in the mail by August 13, 2025).

Pursuant to FED. R. CIV. P. 72(b), the Court has conducted a de novo review of the record and all parts of the Magistrate Judge’s PFRD that have been properly objected to. After conducting this de novo review and having thoroughly considered the Magistrate Judge’s PFRD and the objections, the Court finds no reason either in law or fact to depart from the Magistrate Judge’s recommended disposition.

IT IS THEREFORE ORDERED AS FOLLOWS:

- I. The GEO Defendants' objections and Mr. Hester's objections are OVERRULED;
- II. The Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 131) are ADOPTED;

More specifically, the Court rules as follows:

- (1) Count I-C (Defendant Alderete): the Court dismisses this claim without prejudice under Federal Rules of Civil Procedure 4(m) and 12(b)(5) for lack of personal jurisdiction and failure to serve.
- (2) Count I-D (Defendants Pollard and Massengil): the Court grants summary judgment in favor of the GEO Defendants on the merits.
- (3) Count I-E ("failure to remedy" claims):
 - a) Failure to remedy the conduct of the Medical Defendants: the Court grants summary judgment in favor of the GEO Defendants based on failure to exhaust administrative remedies; alternatively, the Court grants summary judgment in favor of the GEO Defendants on the merits.
 - b) Failure to remedy the conduct of Defendant Alderete:
 - As against GEO: the Court grants summary judgment in favor of GEO on the merits.
 - As against the individual defendants: the Court proceeds under Rule 56(f) as stated below.
 - c) Failure to remedy the conduct of Defendants Pollard and Massengil: the Court grants summary judgment in favor of the GEO Defendants on the merits.
- (4) Count I-F ("failure to train, supervise, and direct personnel" claims):
 - a) Pertaining to the Medical Defendants: the Court grants summary judgment in favor of the GEO Defendants based on failure to exhaust administrative remedies; alternatively, the Court grants summary judgment in favor of the GEO Defendants on the merits.
 - b) Pertaining to Defendant Alderete, Defendant Pollard, and Defendant Massengil: the Court grants summary judgment in favor of the GEO Defendants on the merits.
- (5) Count II-I (Defendant Smith): the Court dismisses this claim without prejudice under Federal Rules of Civil Procedure 4(m) and 12(b)(5) for lack of personal jurisdiction and failure to serve.

(6) Count II-J (Defendant Valeriano): the Court grants summary judgment in favor of the GEO Defendants based on failure to exhaust administrative remedies; alternatively, the Court grants summary judgment in favor of the GEO Defendants on the merits.

(7) Count II-K (“failure to train, supervise, and direct personnel” claims):

- a) Pertaining to the Medical Defendants, Defendant Smith, and Defendant Valeriano: the Court grants summary judgment in favor of the GEO Defendants based on failure to exhaust administrative remedies; alternatively, the Court grants summary judgment in favor of the GEO Defendants on the merits.
- b) Pertaining to Defendants Alderete, Pollard, and Massengil: the Court grants summary judgment in favor of the GEO Defendants on the merits.

III. **The Court hereby provides notice under Federal Rule of Civil Procedure 56(f) that it believes that Mr. Hester has no evidence to support his claims against individual defendants Santistevan, Massengil, Condarco, Valeriano, Gomez, and Pollard for failing to remedy Defendant Alderete’s alleged abuses. If the parties do not provide evidence in support of these claims within 30 days of the entry of this Order, the Court will grant summary judgment on this claim.**



HONORABLE DAVID HERRERA URIAS
UNITED STATES DISTRICT JUDGE